

**Effective 5/10/2016**

**53A-1-1411 Penalties.**

- (1)
  - (a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:
    - (i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;
    - (ii) may be required by the board to pay a civil penalty of up to \$25,000; and
    - (iii) may be required to pay:
      - (A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and
      - (B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.
  - (b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:
    - (i) the board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and
    - (ii) the third-party contractor demonstrates:
      - (A) if the third-party contractor is under contract with an education entity, current compliance with this part; or
      - (B) an ability to comply with the requirements of this part.
  - (c) The board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (d) The board may bring an action in the district court of the county in which the office of the board is located, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).
  - (e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.
- (2)
  - (a) A parent or student may bring an action in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section 53A-1-1410 by a third-party contractor.
  - (b) If the court finds that a third-party contractor has violated Section 53A-1-1410, the court may award to the parent or student:
    - (i) damages; and
    - (ii) costs.

Enacted by Chapter 221, 2016 General Session